Public (Services) Department **(195 48) Department.**

MS **SERIES.**

G.O. No. 2708

Dated 4-11-1948

[Despatch Abstract.]

Public Services - Passage gratuity under Rule 12 of Premature Retirement Rules - Admissibility to officers who were on leave out of India and whose services were terminated on account of recent constitutional changes - Letter from Government of India - Recorded.

Back Papers.

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No.27/27/48- Ests.
GOVERNMENT OF INDIA.
MINISTRY OF HOME AFFAIRS.

From

C.B. Gulati, Esquire, M.A.,
Under Secretary to the Government of India.

To

The Chief Secretary to the Government of the
United Provinces, Appointment (A) Department.

New Delhi - 3, the 15th October 1948.

Subject: Passage gratuity under rule 12 of the Premature Retirement Rules - admissibility to officers who were on leave out of India and whose services were terminated on account of constitutional changes.

Sir,

With reference to your letter No.4488/11-A-540-1946, dated the 20th August 1948, on the subject cited above, I am directed to say that the Government of India consider that the claim for passage gratuity under rule 12 of the Premature Retirement Rules, of those officers who were on leave out of India at the time of the transfer of power and whose services were terminated even though they had themselves elected to continue in service indefinitely after the 15th August 1947, is not without justification. They had apparently no idea when they proceeded on leave that the date of transfer of power will be advanced by about a year or that they will be told to quit service from that date. They went on leave ostensibly with the intention of returning to India on the expiry thereof. Since they did not presumably wind up their affairs before leaving India, they seem to be entitled to some consideration for the purpose of enabling them to wind up their affairs in India even though their cases may not be strictly covered by the rules. In view of these considerations the Government of India agree that the passage gratuity as provided for in the rules might be allowed to the two officers referred to in your letter subject to the following conditions:-

(i) the passage gratuity would be admissible only to those officers who were on leave outside India at the time of transfer of power and who volunteered to continue in service indefinitely but whose offer to do so was not accepted.

(ii) the gratuity would be admissible in respect of the officer himself only. As regards members of his family if they had proceeded to a place outside India along with the officer when he went on leave, no gratuity under rule 12 in respect of them would be admissible. If, however, they had remained behind they would also, under the operation of the ordinary rules, be eligible for the passage gratuity. In this connection attention is invited to rule 12 (4) of the Premature Retirement Rules.

(iii) The gratuity must otherwise be admissible to the officer under rule 12, and will be sanctioned in respect of his final journey to the place of residence outside India only. No separate reembusement in respect of the journey to India will be admissible.

(iv) The officer must actually make a journey to India to wind up his affairs.

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Copy of letter No. 4488/11-A-540-1946 dated the 20th August 1948 from the Government of the United Provinces, Lucknow, to the Ministry of Home Affairs, New Delhi.

am directed to say that under proviso to rule 3 (2) of the Premature Retirement Rules, an officer on leave out of India who applies to retire under the above rules and whose retirement is sanctioned before his leave expires, shall not be eligible for gratuit admissible under rule 12 of the above rules. The Provincial Governmer have accordingly rejected the applications for gratuity from all those officers who were on leave in England, either under the 'Key Leave' scheme or under the ordinary rules, at the time of their retire a result of constitutional changes in India in August last year

Two such officers - Messrs. L.P. Hancox I.C.S. and R.V. Vernede I.C.S. are however pressing a reconsideration of the order and have represented to the Government that they are eligible to the payment or gratuity and have put the following points in support of their claim:-

They did not know while proceeding on leave that the date of transfer of power would be receded to August 15, 1947 instead of June 1948 as previously announced.

They did not apply to retire but the devision to reti: was rather forced on them.

They had no intention to retire while they proceeded on leave and would have returned to India in the usual course on the expiry of leave. Their ordinary leave having been converted into one preparatory to retirement they were prejudiced in comparison with those officers who proceeded on leave a little earlier than themselves and were able to return t India before the crucial date and thus became entitled to the gratuity on retirement.

Rule 2 (c) of the Premature Retirement Rules was amended to provide that officers who retired with the transfer of power or who retired with entitlement to compensation or resettlement grant, would be deemed to have retired under the Premature Retirement Rules and be entitled to the benefits provided thereunder.